

Chapter 314-29 WAC

~~((HEARINGS))~~ VIOLATIONS AND PENALTIES

AMENDATORY SECTION (Amending WSR 03-09-015, filed 4/4/03, effective 5/5/03)

**WAC 314-29-003 Purpose.** The purpose of chapter 314-29 WAC is to outline what a liquor licensee or a mandatory alcohol server training permit holder can expect if a licensee or ~~((employee violates))~~ permit holder receives an administrative violation notice alleging a violation of a liquor control board ~~((law or rule))~~ statute or regulation.

AMENDATORY SECTION (Amending WSR 01-03-086, filed 1/17/01, effective 2/17/01)

**WAC 314-29-005** What are the procedures for notifying a licensee or a mandatory alcohol server training permit holder ~~((to be notified))~~ of an alleged violation of a board statute or regulation? (1) When an enforcement ~~((agent))~~ officer believes that a licensee or a mandatory alcohol server training permit holder has violated a board statute or regulation, the ~~((agent will))~~ officer may prepare an administrative violation notice (AVN) and mail or deliver the notice to the licensee, licensee's agent or permit holder. ~~((This notice will constitute the notice of initial board action, and the remaining steps in the prehearing procedure as outlined in WAC 314-17-010 will be followed.))~~

(2) The AVN notice will include:

(a) A brief narrative description of the violation(s) the ~~((agent))~~ officer is charging;

(b) The date(s) of the violation(s);

(c) A copy of the law(s) and/or regulation(s) allegedly violated;

(d) An outline of the licensee's or permit holder's options as outlined in WAC 314-29-010; and

(e) The recommended penalty ~~((as follows:))~~.

(i) ~~((For cases in which there are no aggravating circumstances as outlined in WAC 314-12-330 and 314-12-340 as now~~

~~or hereafter amended,))~~ If the recommended penalty ((will be)) is the standard penalty ((as outlined in WAC 314-12-170 and 314-12-300 through WAC 314-12-320)), see WAC 314-29-020 through 314-29-035 for licensees, and ((in WAC 314-14-160 and 314-14-165)) WAC 314-17-100 and 314-17-105 for mandatory alcohol server training permit holders((, as now or hereafter amended)).

(ii) For cases in which there are aggravating or mitigating circumstances ~~((as outlined in WAC 314-12-330 and 314-12-340 as now or hereafter amended, the agent will describe the circumstances in a report to the director of the enforcement and education division or the director of the licensing and regulation division. Under the provisions of WAC 314-12-330 and 314-12-340 as now or hereafter amended, the director of the education and enforcement division or the director of the licensing and regulation division may recommend a penalty other than the standard penalty outlined in WAC 314-12-170 and 314-12-300 through WAC 314-12-320)), the penalty may be adjusted from the standard penalty. See WAC 314-29-015 for licensees, and ((in WAC 314-14-160)) WAC 314-17-110 for mandatory alcohol server training permit holders((, as now or hereafter amended)).~~

AMENDATORY SECTION (Amending WSR 01-03-086, filed 1/17/01, effective 2/17/01)

**WAC 314-29-010 What options does a licensee or permit holder have once he/she receives a notice of ((initial board action)) an administrative violation?** (1) ~~((When))~~ A licensee or a mandatory alcohol server training permit holder ((receives a notice of initial board action from a liquor control agent in the mail or in person, the licensee or permit holder)) has twenty days from receipt of the notice to:

- (a) Accept the recommended penalty; or
- (b) Request a settlement conference in writing; or
- (c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

(2) **What happens if a licensee or mandatory alcohol server training permit holder does not respond to the administrative violation notice within twenty days?** If a licensee or permit holder does not respond to the administrative violation notice within twenty days, the recommended penalty will go into effect.

(3) **What are the procedures when a licensee or mandatory alcohol server training permit holder requests a settlement conference?**

(a) If the licensee or permit holder requests a settlement conference, the ~~((agent in charge or designee will schedule the conference))~~ hearing examiner or captain will contact the licensee or permit holder to discuss the violation.

(b) Both the licensee or permit holder and the ~~((agent in~~

~~charge or designee)) hearing examiner or captain will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.~~

~~(c) If a compromise is reached, the ((agent in charge or designee)) hearing examiner or captain will prepare a ((proposed)) compromise settlement agreement ((and will forward it)). The hearing examiner or captain will forward the compromise settlement agreement, authorized by both parties, to the board for approval.~~

~~(i) If the board approves the compromise, a copy of the signed settlement agreement will be sent to the licensee or permit holder, and will ((conclude the case)) become part of the licensing history.~~

~~(ii) If the board does not approve the compromise, ((the board will notify)) the licensee or permit holder will be notified of the decision. The licensee or permit holder will be given the option ((of agreeing to any changes the board has made in the agreement)) to renegotiate with the hearings examiner or captain, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges ((in writing within twenty days of receipt of the notice of board action)).~~

~~(d) If the licensee or permit holder and the ((agent in charge or designee)) hearing examiner or captain cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the ((agent in charge or designee)) hearing examiner or captain will forward a request for an administrative hearing to the board's hearings coordinator.~~

~~((3) What are the procedures when a licensee or mandatory alcohol server training permit holder requests an administrative hearing?~~

~~(a) If the licensee or permit holder requests an administrative hearing in writing within twenty days, it is conducted pursuant to chapter 34.05 RCW (Washington Administrative Procedure Act).~~

~~(b) The board's hearing coordinator will notify the assistant attorney general of the licensee's or permit holder's request for an administrative hearing.~~

~~(c) The assistant attorney general will draft an administrative complaint and send it to the licensee or permit holder and to the office of administrative hearings.~~

~~(d) The office of administrative hearings will schedule the hearing date, and notify the licensee or permit holder and his/her attorney and the assistant attorney general in writing of the hearing date, time, and location.~~

~~(e) The hearing will be conducted by an administrative law judge assigned by the office of administrative hearings. Subpoenas may be issued by an attorney for any party, or by the assigned administrative law judge.~~

~~(f) At the hearing, the assistant attorney general or a designee will present witnesses and other evidence on behalf of the board's enforcement staff.~~

~~(g) At the hearing, the licensee or permit holder may be represented by an attorney or may choose to represent himself or~~

~~herself. The licensee or permit holder or his/her attorney will be allowed to present witnesses or other relevant information.~~

~~(4) **What will happen after the administrative hearing?**~~

~~(a) Following the hearing, the administrative law judge will prepare an initial order and send it to the licensee or permit holder and the assistant attorney general.~~

~~(b) Either the licensee or permit holder or the assistant attorney general may file a petition for review of the initial order with the liquor control board within twenty days of the date of service of the initial order. The petition for review must:~~

~~(i) Specify the portions of the initial order to which exception is taken;~~

~~(ii) Refer to the evidence of record which is relied upon to support the petition; and~~

~~(iii) Be filed with the liquor control board within twenty days of the date of service of the petition.~~

~~(iv) Copies of the reply must be mailed to all other parties or their representatives at the time the reply is filed.~~

~~(c) The administrative record, the initial order, and any exceptions filed by the parties will be circulated to the board members for review.~~

~~(d) Following this review, the board will enter a final order which is appealable under the provisions of RCW 34.05.510 through 34.05.598 (Washington Administrative Procedure Act).~~

~~(5) **What happens if a licensee or mandatory alcohol server training permit holder does not respond to the notice of initial board action within twenty days?** If a licensee or permit holder does not respond to the notice of initial board action within twenty days, the recommended penalty will go into effect.)~~